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VIA ELECTRONIC MAIL

May 1, 2013

Colorado General Assembly
State Capitol
Denver, Colorado 80202

Re: House Bill 13-1317; House Bill 13-1318; Senate Bill 13-283; Implementation of Amendment 64; "Alcohol Marijuana Equalization Initiative"; Colorado Constitution, Article XVIII § 16

Dear Colorado State House and Senate:

We are pleased to provide the following comments regarding House Bills 13-1317 (House Third Reading Unamended April 29, 2013) and 13-1318 (House Third Reading Unamended April 30, 2013) and Senate Bill 13-283 (Senate Amended Second Reading May 1, 2013), which purport to implement Amendment 64, the "Alcohol Marijuana Equalization Initiative."

By way of credentials, Robert J. Corry, Jr. was a co-author of Amendment 64. Lawyers from this firm represented the official campaign committee in litigation. Since 2001, we have handled hundreds of civil and criminal cases throughout the State related to marijuana. The firm's principal, Robert J. Corry, Jr., previously served on the Department of Revenue Medical Marijuana Rulemaking Workgroup. He also served as Majority Counsel to the U.S. House of Representatives Judiciary Committee, and has a J.D. from Stanford Law School and a B.A. from the University of Colorado-Boulder.

Amendment 64, now codified in the Colorado Constitution, Article XVIII § 16, passed with a strong 55% majority of support of Colorado

voters. In adding this provision to our State's Supreme Law, voters desired to equalize the treatment of marijuana with alcohol, and end criminal Prohibition of marijuana and cease the use of Colorado's over-burdened criminal justice system as a regulatory social engineering tool for marijuana.

Amendment 64 was specifically drafted and sold to the public as the "Alcohol Marijuana Equalization Initiative," not the "Regulate Recreational Marijuana Like Medical Marijuana Initiative." The campaign was conducted along these lines, both sides had ample opportunity to present their respective messages, and Colorado voters responded favorably to Amendment 64 and to the proposed policy of treating marijuana like alcohol.

These bills do not resemble Colorado's alcohol laws and regulations. Although some aspects of these bills are good policy, many aspects of these bills would continue Prohibition, cause the regulated market to fail thus empowering the Gray and Black Markets, and work contrary to basic economic laws of supply and demand.

As an initial matter, consideration of these unnecessarily lengthy and complex bills wastes the Legislature's valuable time and resources. Under Amendment 64, the Legislature's duties and power are narrow and limited. The specific intent of the drafters was for the Department of Revenue, not the Legislature, to adopt the regulations. See Colorado Constitution, Article XVIII § 16(5)(a) ("Not later than July 1, 2013, ***the Department*** shall adopt regulations necessary for the implementation of this section.") (emphasis added); § 16(2)(c) (definition of "Department" as the Department of Revenue). The Legislature should instead focus on the more narrow and pressing task of eliminating statutory provisions that conflict with Amendment 64, such as C.R.S. § 18-18-406 and associated statutes.

The Colorado Constitution, through Amendment 64, now specifically provides that any violation of Amendment 64 should be dealt with as a civil administrative matter, not as a criminal case. See Colorado Constitution, Article XVIII §16(5)(a)(IX) ("civil penalties for failure to comply with regulations made pursuant to this section.") Accordingly, significant changes will need to be made to Colorado's criminal statutes to reflect the new post-Prohibition desires of the electorate.

The Legislature should consider the following actions or statutory reforms to fully implement the will of the voters in adding Article XVIII § 16 to the Colorado Constitution:

1.) The Drug War is Over, Prisoners of War Should be Released

The State should consider amnesty, pardon, or commutation of sentence for all individuals in Colorado currently serving a sentence of prison, jail, parole, or probation for any previous "crime" related to marijuana that is no longer a crime under Amendment 64, Article XVIII §16 of the Colorado Constitution. The Governor has the power to issue gubernatorial pardons. See Colorado Constitution, Article IV § 7; C.R.S. § 16-17-101 *et seq*. If the Governor is unwilling to exercise his power of pardon, the legislature could still pass an amnesty bill automatically commuting any marijuana-related sentence.

2.) Record Sealing for a Fresh Start

Automatic sealing of all criminal records related to any previous marijuana-related conviction, so that previous offenders who have served their sentence can obtain employment, obtain rental housing, apply for governmental licenses or benefits, clear their good names, and wipe the slate clean, in order to provide for their families. See C.R.S. § 24-72-308. The voters have shown that now is indeed the time to "forgive and forget."

3.) Restoration of Civil Rights

Restoration of rights to keep and bear arms for any individual convicted of a marijuana-related felony that is no longer a crime under Amendment 64. Current federal and state law permits the Governor to restore the right of self-defense to any previously convicted felon on an individual basis. This should be done for people who have served their time and paid the price for something that is no longer even a crime.

4.) Reschedule THC at State Level

It is a little-known fact that the State of Colorado independently schedules controlled substances, in addition to the federal scheduling. The Legislature should consider removal of cannabis and its active ingredient, tetrahydrocannabinols ("THC"), from the scheduling of drugs under Colorado law. Presently, cannabis and THC are contained in Schedule I under Colorado law. See C.R.S. § 18-18-102(35); C.R.S. § 18-18-203(2)(c)(XXIII). Alcohol is not scheduled at all in Schedules I-V under State law, and marijuana should be equalized with alcohol. It is ludicrous for Colorado itself to schedule cannabis and THC as Schedule I when it

previously requested the U.S. Government to reschedule cannabis from federal Schedule I. See HB 10-1284.

5.) Overhaul Colorado Criminal Code

Significant changes must be made to bring Colorado's criminal laws in line with Amendment 64, such as removal of criminal penalties for adults age 21+ related to marijuana presently contained in Colorado law. As noted, any deviation or overreach from the parameters of Amendment 64 by an adult age 21+ are now remedied by a civil fine only. The following criminal statutes should be repealed or substantially amended, and removed from the criminal code and placed as civil administrative matters. See C.R.S. § 18-6-401(1)(a)(c)(I) (alleged "child abuse" to grow marijuana in same premises where child resides); C.R.S. § 18-18-406 (marijuana prohibition); C.R.S. § 18-18-406.1 (synthetic marijuana; synthetic alcohol, i.e. non-alcohol beer, is acceptable); C.R.S. 18-18-406.2 (synthetic marijuana); C.R.S. § 18-18-406.5 (use of marijuana in detention facility); C.R.S. § 18-18-407 (special offender); C.R.S. §§ 18-18-425-430.5 (paraphernalia).

6.) Preserve Parenting Rights

The Legislature should consider statutory codification of the Colorado Court of Appeals decision in In Re Marriage of Lyman, 240 P.3d 509 (Colo. App. 2010), which held that marijuana use alone, without any additional evidence, could not constitute child abuse or child endangerment, and could not be the basis for the removal of parenting rights. This law firm successfully represented the father in that case on appeal, who was reunited with his seven-year-old daughter after a trial court previously separated father and daughter only because of the father's use of marijuana. This binding appellate decision should be enshrined in statute to protect children from losing a parent due to societal prejudice against legal marijuana users who are good parents.

Lawyers from this firm would be happy to assist the Legislature in crafting legislation on any of the above subjects.

As far as H.B. 13-1317, H.B. 13-1318, and S.B. 13-283, we have the following recommendations:

"Individual Rights" Option

In general, Coloradoans and tourists will have a legal and viable alternative if the State passes these bills without significant amendments,

and over-regulates and over-taxes the retail market. Amendment 64 was specifically designed to include unregulated individual constitutional rights held by every adult 21+ in Colorado, to act as a "safety valve" in the event that government regulation of the retail market squeezed too hard and artificially restricted the supply to the willing public.

Amendment 64 specifically cites ***"enhancing individual freedom"*** as the core purpose of the amendment. Colorado Constitution Article XVIII § 16(a)(1). These bills stray from this principle.

This individual right option, which applies statewide, is not subject to regulation nor taxation, and cannot be repealed or banned in any jurisdiction within Colorado, and affords every adult the constitutional right to do the following:

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:□

(a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.□

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.□

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.□

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.□

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

See Colorado Constitution, Article XVIII § 16(3), Personal Use of Marijuana.

Lawyers from this firm have set up numerous adult agricultural collectives since the passage and enactment of Amendment 64, which are intended to "fill the gap" until the regulated retail market is fully implemented. These agricultural collectives operate under the auspices of and in full compliance with the Colorado Constitution and all applicable state and local statutes, ordinances, and regulations. These collectives do not sell marijuana for profit, and are instead only provided with direct and precise reimbursement for their documented out-of-pocket expenses. The Constitution allows these operations to stockpile unlimited amounts of marijuana on the cultivation premises under § 16(3)(b), and allow an unlimited number of adults to join in and designate their six plants to the collective for "assistance" under § 16(3)(e).

Operators of these collectives in Colorado would prefer to transition into the taxed, regulated, marijuana market as retailers and/or wholesalers when such market is fully implemented in October 2013, as contemplated under Amendment 64. However, if these bills are adopted, then these collectives will continue indefinitely since operators will be shut out of the regulated system, which will produce inferior marijuana at an artificially-government inflated price. The regulated system will fail if the government squeezes too tightly.

Vertical Integration/70-30 Requirement/Barrier to Entry

H.B. 13-1317 (pages 9-11) would bar from entry into the new Recreational Marijuana licensed market anyone not currently licensed under the Medical Marijuana Code, requires the State to limit the number of licenses (page 24), and perpetuates the irrational and unenforceable "70/30" requirement until September 2014 (pages 42-43, 46-47). It would thus continue the failed system used for Medical Marijuana, of "Vertical Integration," or "common ownership" of producer and retailer. To use an analogy, "common ownership" essentially means that a supermarket would be required to own the apple orchards, cattle ranches, cornfields, wheat fields, orange groves, peanut farms, tomato plants, dairies, etc., any garden or operation that makes produce or products sold on the store shelves, the

retailer must own it. There is no other industry required to comply with such an unworkable restriction.

We strongly oppose this restriction. Lawyers from this firm have represented and set up hundreds of the existing Colorado Medical Marijuana dispensaries since 2001. We brought key pieces of litigation allowing this industry to start and to flourish. We helped to create this industry from nothing, and know and understand its fundamental essence well.

Currently, the Medical Marijuana consumer base consists of approximately 108,000 licensed Medical Marijuana patients, i.e. those who hold "red cards" issued by the Colorado Department of Public Health and Environment, Medical Marijuana Registry. Vertical Integration is not even practiced in the current Medical industry, since Medically-Infused Product Manufacturers ("MIPs") licensees are permitted to be pure wholesalers under current law and regulation. In fact, MIPs are required to wholesale and cannot retail under the MIPs license.

Although there are many hard-working and well-meaning individuals currently owning or working in the existing Medical Marijuana Centers and Cultivation Operations, the present industry as a whole cannot satisfy ***current demand*** from their 108,000 customers. It certainly cannot meet the increased demand from Amendment 64, and would turn over that demand to the untaxed and unregulated Black Market as an economic reality.

Presently, under the Medical Marijuana regime, as soon as marijuana is produced, it is gone from the shelves. Demand presently outstrips supply. This is the status quo. It should not continue. The present industry -- if the government artificially locks it in and forbids competition -- would fail to meet increased demand created by Amendment 64, which increases the potential customer base from 108,000 to every one of the 4,000,000 adults in Colorado, plus any visitor or tourist who sets foot in the State.

Moreover, the basic design of the current Medical Marijuana Industry does not fit with, and will not translate to, Amendment 64. The current industry limits retailers and producers to "plant counts" based on the number of patients designating a particular Center as their "Provider." Each Center is permitted to cultivate six plants per patient. There are three classes of Centers based upon their patient count.

By contrast, Amendment 64 has no way for an adult to "designate" a specific retailer, and has no plant count limits for wholesalers, just as a liquor store or bar is not legally limited in size by any requirement that its

customers "designate" it. These limits on size of Medical Marijuana Centers mean that that industry cannot easily transition itself to handle the entirety of recreational demand, without some new additions and arrivals to the industry to supplement the MMCs that will transition over to recreational.

The current Medical Marijuana industry, if Government mandates that it be stagnant, with the same tired old players, no new blood, no new capital, no new ideas, and it will fail. The Gray and Black Market will fill the void, and will pay zero taxes, follow no regulations, undercut the inflated regulated price of marijuana, and defeat the voters' intent.

Even on the legitimate regulated side, Common Ownership/Vertical Integration would deprive the State of Excise Taxes, which Amendment 64 designs to go towards school construction. Colorado Constitution Article XVIII § 16(5)(d). If the same entity owns the production and retail functions, there can be no excise taxes collected, since transfers within the same entity are not taxed in a meaningful way. Vertical Integration/Common Ownership cheats the State out of millions in tax revenue, to the detriment of school construction and the State's schoolchildren.

A principal justification used for Vertical Integration, and a number of other restrictionist provisions, is the strawman argument that the Federal Government wants it. There is no support for that assertion. The Federal Government has said nothing that even remotely resembles a suggestion that Colorado mandate vertical integration. Washington State's new marijuana legalization initiative, passed the same time as Colorado's, specifically *prohibits* vertical integration because it leads to monopolies and market domination, and can harm the consumer and the public interest. There is no evidence whatsoever that the Federal Government intends to intervene in Washington State because it prohibits vertical integration.

Common ownership artificially suppresses the market and thus costs jobs, and degrades and devalues workers who work within a monopolistic enterprise and lose collective bargaining power. Growers should have the freedom to operate as independently licensed growers and wholesalers who can concentrate on their core competencies rather than being owned by a retailer. That was the intent of Amendment 64, which provides explicitly for separate licenses of four varieties; retail, wholesale, infused manufacturing, and laboratory.

There is nothing wrong with a hard-working business that provides a quality product at a fair price, in an open and fair market. There is

everything wrong with "Crony Capitalism" that seeks, and receives, and Government-granted Monopoly to shut the door on competition and provides an inferior product at an artificially inflated price.

Amendment 64 itself prohibits regulations that are "unreasonably impracticable." Colorado Constitution Article XVIII § 16(5)(a). "Unreasonably impracticable" is defined by Amendment 64 "means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset that the operation of a marijuana establishment is not worthy or being carried out in practice by a reasonably prudent businessperson." Colorado Constitution Article XVIII § 16(2)(o).

Vertical Integration, linked with a its proposed moratorium on any new applicant, and the perpetuation of the 70/30 requirement, shuts the door completely on new reasonably prudent businesspeople, and is unreasonably impracticable, thus would violate Amendment 64 by its own terms.

Common Ownership/Vertical Integration will restrict the industry and cost jobs, deprive the State of tax revenue, and enhance the Black Market. It should be rejected in both the new Recreational Marijuana industry and the Medical Marijuana industry as well.

Residency Requirements for Owners and Employees

H.B. 13-1317 (page 30) requires that any business investor or owner be a Colorado resident for two years. This barrier has no place in Colorado. It is discriminatory, exclusionary, offensive, and harms our economic recovery. It is not right for Colorado to shut our doors to immigrants and new arrivals, who come here to pursue a dream of opening a business. If someone desires to do business in Colorado, we should welcome them and their capital, and the jobs they will bring, as we do in every single other industry.

There are many people of goodwill in the 49 other states and other countries who wish to bring money, jobs, and business acumen to Colorado. This provision racially discriminates as well, since minorities and immigrants are disproportionately more likely to move to the U.S. or to Colorado to open a new business. This protectionist provision has no place in a State that spends taxpayer money to attract business to this State. It is a job-killer. Competition in a free market brings out the best in all of us, and ought to be encouraged.

Discrimination against recently-arrived residents of Colorado invokes the Privileges and Immunities, Equal Protection, and Commerce Clauses of the U.S. Constitution. Saenz v. Roe, 526 U.S. 489 (1999); Paul v. Virginia, 75 U.S. (8 Wall.) 168, 180 (1868) ("without some provision . . . removing from citizens of each State the disabilities of alienage in other States, and giving them equality of privilege with citizens of those States, the Republic would have constituted little more than a league of States; it would not have constituted the Union which now exists."); Dunn v. Blumstein, 405 U.S. 330, 334 (1972); Arlington County Bd. v. Richards, 434 U.S. 5 (1977); Dean Milk Co. v. City of Madison, 340 U.S. 349 (1951); Shapiro v. Thompson, 394 U.S. 618, 629-31, 638 (1969); Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974); Jones v. Helms, 452 U.S. 412, 420-21 (1981); Oregon v. Mitchell, 400 U.S. 112, 236-39 (1970) (Justices Brennan, White, and Marshall), and id. at 285-92 (Justices Stewart and Blackmun and Chief Justice Burger); Crandall v. Nevada, 73 U.S. (6 Wall.) 35 (1868); Edwards v. California, 314 U.S. 160 (1941) (both cases in context of direct restrictions on travel); United States v. Guest, 383 U.S. 745, 758, 759 (1966), and id. at 763-64 (Justice Harlan concurring and dissenting), id. at 777 n.3 (Justice Brennan concurring and dissenting); San Antonio School Dist. v. Rodriguez, 411 U.S. 1, 31-32 (1973); Zobel v. Williams, 457 U.S. 55, 60 & n.6 (1982), and id. at 66-68 (Justice Brennan concurring), 78-81 (Justice O'Connor concurring).

Prohibition on Previous Felons

H.B. 13-1317 (page 29-30) bans previous drug felons from participation after they have paid their debt to society and finished their sentences. Like so many others, this recommendation constitutes protectionism and irrational barriers to otherwise qualified individuals from turning their skills into something that can legally provide for their families.

The intent of Amendment 64 was to free the Prisoners of War from the Drug War that is now over. A ban on previous felons only continues the negative impacts of the Drug War that Colorado voters wanted to consign to the ash heap of history.

It would only preserve the same tired old players in the current industry and empower the Gray and Black Market to seize and meet the inevitable increased demand.

This recommendation also perpetuates racial discrimination. For a variety of complex social factors including poverty, members of minority groups are disproportionately convicted of felonies. A ban on felons thus

operates in a racially discriminatory fashion. Whether that discrimination is intentional or not, the result is that fewer minorities will be able to enter into this industry.

Purchase of Marijuana by Residents and Visitors

H.B. 13-1317 (page 44) contains different limits on retail purchase by residents and visitors, one ounce for Coloradoans and ¼ of an ounce by nonresidents. Differential limits are not authorized under Amendment 64 nor the U.S. Constitution. Any adult present in Colorado is entitled to full and free exercise of his or her freedom under our laws.

The premise of this provision, that it will prevent "diversion" out of state, exposes a lack of understanding of this community. If there is "diversion," it will be in the form of pounds and wholesale quantities, purchased from the Gray or Black Market (which will expand if the other provisions in the bill are adopted). Only minor diversion will come from marijuana purchased at retail, especially if the retail price is inflated due to over-regulation and over-taxation.

Ironically, if the bill is adopted unamended, then the regulated entities' main source of business may be out-of-staters willing to pay inflated costs so they can conveniently exercise their freedoms while on vacation in Colorado. Residents will be "diverted" to collectives and the Gray and Black Market, which will be able to charge far less for untaxed, unregulated marijuana that will be of higher quality since producers are concentrating on marijuana, not concentrating on printing out copious government forms in triplicate to satisfy some imaginary bureaucratic concern.

The cases cited above as to residency restrictions on licensees would partially apply to the residency restriction or limit on purchases as well.

Regarding Penalties for DUID

H.B. 13-1317 (pages 63-83) inserts the DUI-D provision from H.B. 13-1114, which was already rejected by the Senate. There are many good reasons the Senate rejected House Bill 13-1114, which would have create a permissible inference of Driving Under the Influence ("DUI") criminal offense for drivers with five nanograms or more of tetrahydrocannabinol ("THC") in blood, reversing the Burden of Proof away from "Innocent Until Proven Guilty" to "Guilty Until Proven Innocent."

The bill is not warranted from a scientific standpoint. THC affects everyone differently, and is not well-suited to a uniform numerical standard. From the standpoint of a courtroom litigator who has represented Coloradoans charged with criminal DUI offenses, we oppose this provision because if passed, innocent people will be convicted.

One case I tried to a jury in the past illustrates the point. In People v. Solimeo, Gunnison County Court Case No. 10T288, the driver had ten nanograms of THC in his blood. There was no accident or victim whatsoever in the case. Mr. Solimeo's performance on voluntary roadside tests was not perfect, but easily attributed to high winds frequent in Gunnison (even the sober State Patrol Trooper could not perform the roadside tests perfectly in the courtroom when asked to do so).

Despite the ten nanograms, all evidence in the case showed that Mr. Solimeo was perfectly sober, driving well, and not a danger to anyone on the road that night. Mr. Solimeo was aware of the effects of THC on him and could easily compensate for them. Mr. Solimeo did not testify at trial because there was no real evidence against him, and any testimony from him would have been viewed as self-serving and defensive. Accordingly, the jury acquitted Mr. Solimeo of all charges, and even declined to find him guilty of the lesser included offense of Driving While Ability Impaired ("DWAI").

If this "Guilty Until Proven Innocent" standard becomes law, then Defendants must "prove a negative." It would also force Defendants to waive their right to remain silent and trial, and attempt to explain that they were not impaired. Most defendants in criminal cases, even if innocent, opt not to testify because their testimony would inevitably appear defensive and self-serving, and testifying in one's own criminal trial can be an intensely stressful experience. Accordingly, this bill would place the Defendant at a severe disadvantage, and will result in innocent people being convicted.

The right to remain silent and the presumption of innocence are tried-and-true legal principles that have served well our country and its people. There is no need to cast these important principles aside. Current law already criminalizes driving a vehicle while impaired by THC or any other substance. The vast majority of drivers charged with DUI- D for THC are convicted, and prosecutors are able to satisfy their burden of proof beyond a reasonable doubt, if they have evidence. Current law thus adequately protects public safety. This proposal removes the burden of proof beyond a reasonable doubt, and makes conviction a near certainty because the burden of proof is shifted and a Defendant is forced to prove a negative.

Sales Tax and Excise Tax

H.B. 13-1318 proposes a 10% sales tax on retail sales of marijuana and a 15% excise tax on wholesale sales of marijuana, even transfers within a "vertically integrated" entity. Another vote of the people will need to be taken. If these high taxes are approved, then regulated retail marijuana will be taxed at an effective rate of **32.62%:** 10% marijuana sales tax + 15% excise tax + 2.9% state sales tax (7.62% in Denver and similar in other localities) = **32.62%** total tax rate.

As with many of the other job-killing regulations, an excessive tax rate will be undercut by the Gray and Black Market, which are untaxed. Excessively high tax rates promote cheating in the regulated market as well. Since this remains a "cash" business due to banking problems, collecting these high taxes will be a logistical problem.

Amendments to the Colorado Clean Indoor Air Act

S.B. 13-283 (page 12-13) adds a prohibition on indoor marijuana smoke to Colorado's indoor tobacco smoking ban. There is no rationale for this provision. The Clean Indoor Air Act, C.R.S. § 12-14-202 is based upon the demonstrated harm to people from second-hand tobacco smoke. There is no evidence, not a single study, that second-hand marijuana smoke is harmful. Marijuana smoke lacks the carcinogens, tar, and nicotine in tobacco. Unless there is some demonstrated harm presented by second-hand marijuana smoke, it ought not be included in the indoor smoking ban, especially because unlike tobacco, outdoor smoking of marijuana is not an option and not authorized in all circumstances under Amendment 64 if such smoking is done publicly and openly.

In conclusion, the Legislature has an opportunity to implement this historic and significant constitutional provision in a manner where Colorado leads the way in a new direction on eliminating the vestiges of the failed policy of Marijuana Prohibition, as Colorado's voters strongly desired. Thank you very much for your consideration. We would be happy to answer any questions that you have.

Sincerely,

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